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*Chairman*: Mr. Sandoval (Vice-Chairman) ..... (Colombia)

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Agenda item 85: Report of the Special Committee on the Charter of the United Nations and on the Strengthening of the Role of the Organization

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*In the absence of Mr. Tulbure (Moldova), Mr. Sandoval (Vice-Chairman) took the Chair.*

*The meeting was called to order at 10.05 a.m.*

**Agenda item 85: Report of the Special Committee on the Charter of the United Nations and on the Strengthening of the Role of the Organization**
(A/62/33, A/62/124 and Corr.1, A/62/206 and Corr.1; A/C.6/62/L.6)

1. **Mr. Towpik** (Poland), Chairman of the Special Committee on the Charter of the United Nations and on the Strengthening of the Role of the Organization, introducing the Special Committee's report (A/62/33), noted that the Special Committee had met in New York from 7 to 15 February 2007 to continue its deliberations on the questions mandated by General Assembly resolution 61/38. He drew attention in particular to chapter III, relating to the maintenance of international peace and security. Pursuant to the General Assembly's request, the Special Committee had considered on a priority basis the question of the implementation of the Charter provisions related to assistance to third States affected by the application of sanctions (paras. 14-19). The rest of the chapter dealt with the Special Committee's consideration of a number of documents: the revised working paper submitted by the Russian Federation entitled "Declaration on the basic conditions and standard criteria for the introduction and implementation of sanctions and other coercive measures"; the further revised working paper submitted by the Russian Federation entitled "Basic conditions and standard criteria for the introduction and implementation of sanctions imposed by the United Nations"; the revised working paper submitted by the Libyan Arab Jamahiriya on the strengthening of certain principles concerning the impact and application of sanctions; the Russian Federation's working paper entitled "Fundamentals of the legal basis for United Nations peacekeeping operations in the context of Chapter VI of the Charter of the United Nations"; the working papers submitted by Cuba at the 1997 and 1998 sessions entitled "Strengthening of the role of the Organization and enhancing its effectiveness"; the revised proposal submitted by the Libyan Arab Jamahiriya concerning the role of the United Nations in the maintenance of international peace and security; and the revised working paper submitted by Belarus and the Russian Federation concerning a request for an advisory opinion of the International Court of Justice.

2. Chapter IV concerned the peaceful settlement of disputes. Under that item, the Special Committee had had no specific proposals before it. The discussions on the *Repertory of Practice of United Nations Organs and the Repertoire of the Practice of the Security Council* were summarized in chapter V. Lastly, chapter VI contained a summary of the discussions on the Special Committee's working methods and the identification of new subjects.

3. **Ms. Arsanjani** (Secretary of the Committee), speaking as the Director of the Codification Division and introducing document A/62/124 and Corr.1, summarized the results achieved in the previous 12 months with regard to the *Repertory of Practice of United Nations Organs*. In 2007, volume I of Supplement No. 9 (1995-1999) had been finalized and submitted for translation and publication. Volume V of Supplement No. 8 (1989-1994) and volume V of Supplement No. 9 (1995-1999) had been completed and were being submitted for translation and publication. The backlog in respect of those volumes had therefore been eliminated, and all studies pertaining to them were available on the United Nations website for the *Repertory*. Advance versions of several studies on individual Articles of the Charter had also been finalized and placed on the website. Those studies pertained to volume II of Supplements No. 7, 8 and 9 and volume IV of Supplements No. 8 and 9. As a means of addressing the backlog on volume II of Supplements No. 7, 8 and 9 (1985-1999), articles on which studies of the *Repertoire* and the *Repertory* overlapped had been identified. Volume II of Supplement No. 6, which had been available on the Internet for some time, had been issued in hard copy.

4. Studies from 32 complete volumes, together with studies on individual Articles of the Charter from seven volumes not yet complete, were available on the United Nations website for the *Repertory*. All studies available in English were on the website, together with 57 per cent of the studies in French and 32 per cent of those in Spanish. The Secretariat would continue its efforts to make all three language versions of published *Repertory* studies available electronically. The report of the Secretary-General (A/62/124) contained additional information concerning publication of volumes in language versions.

5. The well-established cooperation with Columbia University Law School had continued for the fourth consecutive year, and the collaboration project established with French-speaking academic institutions had also continued and had produced its first results. The Secretariat found significant benefit in cooperation with academic institutions and would continue to take advantage of the involvement of externs and interns, mainly in the area of research and collection of documentation. Naturally, the Secretariat retained ultimate responsibility for the preparation of studies.

6. In its resolution 61/38, the General Assembly had reiterated its call for voluntary contributions to the trust fund established pursuant to resolution 59/44 to eliminate the backlog in the *Repertory*. The Secretariat welcomed the first donations to the trust fund of $30,000 and $3,000, received from the Governments of Greece and Turkey respectively. Further contributions would enable the Secretariat to accelerate work on the *Repertory* in a more sustained manner.

7. Lastly, the Interdepartmental Committee on Charter *Repertory* had decided that Supplement No. 10 would cover the period from 2000 to 2005.

8. **Mr. Boventer** (Security Council Practices and Charter Research Branch, Department of Political Affairs), updating the Committee on the status of the *Repertoire of the Practice of the Security Council*, said that the Secretariat had continued to implement the two-track approach most recently endorsed by the General Assembly in its resolution 61/38. That approach had allowed it to focus on contemporary Council practice, while simultaneously ensuring progress in the preparation of the Supplements covering the Council's practice during the previous decade. Hard copies of the eleventh Supplement (1989-1992) were expected to be available in English in November 2007, with the other language versions following shortly thereafter. The eleventh Supplement had been redesigned and was expected to have 1,100 pages, approximately twice the number of pages in the tenth Supplement. The twelfth Supplement, covering the period 1993-1995, had been sent for editing; in the meantime, the advance version was available on the *Repertoire* website. The thirteenth Supplement, covering the period 1996-1999, would be completed by the end of 2007, and advance versions of several chapters had been posted on the *Repertoire* website.

9. With regard to the Council's contemporary practice, significant progress had been made on the millennium volume (the fourteenth Supplement), covering the period 2000-2003. Advance versions of all but one chapter dealing with the procedural and constitutional aspects of the Council's practice were due to be completed and posted on the *Repertoire* website by the end of 2007. As part of its ongoing efforts to expedite Member States' access to material on current Council practice and to bring the publication of the *Repertoire* back on schedule, the Secretariat had focused all its efforts in the past year on completing and making available the twelfth, thirteenth and fourteenth Supplements. Progress on the fifteenth Supplement was expected to pick up pace once the last chapter of the millennium volume had been completed. In addition, the Security Council Practices and Charter Research Branch had been providing information on request to Member States on questions relating to the practice of the Council and its subsidiary bodies. In an effort to further advance the dissemination of the *Repertoire*, CDs had been prepared containing the English version of all the Supplements published to date and posted in advance form on the Internet.

10. As mandated by the General Assembly, the Secretariat would continue to submit completed and edited volumes of the *Repertoire* for translation into and publication in all official languages. In that context, every volume of the *Repertoire* in French had been made available on the *Repertoire* website.

11. In a situation of persistent financial constraint, voluntary contributions to the trust fund for the updating of the *Repertoire* remained important in sustaining progress in the preparation of the publication. The Secretariat was grateful to those Member States that had made contributions. In the past year, contributions to the fund had been received from Albania, Angola, Greece, Ireland, the Republic of Korea, the Russian Federation, Turkey and the United Kingdom. The Secretariat was also grateful to Germany and Italy for the sponsorship of their respective associate experts. He appealed to Member States to continue supporting the work on the *Repertoire* by contributing to the trust fund or by sponsoring an associate expert.

12. **Mr. Beras Hernández** (Dominican Republic), speaking on behalf of the Rio Group, said that issues relating to the maintenance of peace and security had been discussed extensively by the Special Committee

over a number of years. At the current stage it was important to concentrate on those elements which enjoyed broad acceptance among Member States, with a view to preparing a document that could be recommended to the General Assembly or the Special Committee on Peacekeeping Operations.

13. The Security Council had made significant progress in the areas of due process and transparency in the procedures for the application of sanctions. Nonetheless, the issue of sanctions should remain on its agenda. The Group welcomed the revised working paper from the Russian Federation entitled "Basic conditions and standard criteria for the introduction and implementation of sanctions imposed by the United Nations" (A/C.6/62/L.6) and looked forward to a comprehensive debate on the subject.

14. The Group reiterated its conviction that States that were parties to a dispute should make every effort to achieve a peaceful settlement, in accordance with the principle of free choice of means set out in the Charter. It also reiterated its recognition of the important role of the International Court of Justice, as the principal judicial organ of the United Nations, in adjudicating disputes among States. In that regard, the Group repeated its request for the timely distribution of the advisory opinions requested by the principal organs of the United Nations as official documents of the Organization, as envisaged in General Assembly resolution 61/38.

15. The time was right for the Special Committee to begin considering new subjects. The Rio Group had already made proposals for the inclusion of new items in the Special Committee's agenda, in particular an item entitled "Consideration of the legal aspects of the reform of the United Nations" and an item on the review of the rules of procedure of the General Assembly. The Rio Group expressed the hope that the Special Committee's work could be reinvigorated through the discussion of new subjects, which would reaffirm the Special Committee's relevance in the process of reforming the Organization.

16. Lastly, the Group welcomed the progress made in the publication of volumes of the *Repertoire of the Practice of the Security Council and the Repertory of Practice of United Nations Organs*. It continued to support enhanced cooperation with academic institutions in that regard and called for voluntary contributions to the trust funds for the updating of the two publications.

17. **Mr. Madureira** (Portugal), speaking on behalf of the European Union; the candidate countries Croatia, the former Yugoslav Republic of Macedonia and Turkey; the stabilization and association process countries Albania and Serbia; and, in addition, Armenia, Liechtenstein, Moldova, Norway and Ukraine, said that the European Union regarded sanctions, applied in accordance with the Charter of the United Nations, as an important tool in the maintenance and restoration of international peace and security. The Special Committee had held useful discussions at its February 2007 session on the basis of the revised working paper entitled "Basic conditions and standard criteria for the introduction and implementation of sanctions imposed by the United Nations". The debate was also taking on a dynamic of its own in various other forums, both public and private, with the participation of the international community and academia. European Union member States had been actively engaged in the process of reflection aimed at enhancing the design, implementation and effectiveness of sanctions, in some cases leading important research initiatives in that regard.

18. The European Union welcomed the final report of the Informal Working Group of the Security Council on General Issues of Sanctions (S/2006/997), which set out an impressive range of best practices and methods that would doubtless help improve the targeting and effectiveness of sanctions. The Council had also made notable progress on the issue of procedures for the listing and de-listing of individuals and entities. Pursuant to its request in resolution 1730 (2006) a focal point had been established within the Secretariat to receive de-listing requests. With respect to the Al-Qaeda and Taliban Sanctions Committee, resolution 1735 (2006) had introduced further steps designed to make listing and de-listing procedures more predictable, transparent and fair. It also provided more guidance on the proposal of names for inclusion on the consolidated list maintained by that Committee. The Special Committee should take all those developments into consideration when pondering the future direction of its work on the issue. The targeted nature of existing sanctions regimes had led to significant reductions in unintended consequences. The issue of assistance to

third States affected by the application of sanctions was therefore becoming less relevant.

19. The European Union commended the work of the Special Committee with regard to the fundamentals of the legal basis for United Nations peacekeeping operations in the context of Chapter VI of the Charter. It also welcomed the progress made with regard to the publication of volumes of the *Repertory of Practice of United Nations Organs* and the *Repertoire of the Practice of the Security Council*, and particularly the efforts to make the publications available on the Internet, and encouraged further use of the United Nations internship programme and expanded cooperation with academic institutions in that endeavour. The European Union was also grateful to those States that had contributed to the trust funds established to facilitate the preparation of the publications and those that had sponsored associate experts, and encouraged other Member States to make similar contributions.

20. The European Union had welcomed the adoption in 2006 of the working paper on the working methods of the Special Committee. However, only limited progress had been achieved since then. The European Union stood ready to continue work on that subject on a priority basis. It was also time to take a fresh look at the issues on the Special Committee's agenda. Work should continue in those areas where agreement was possible and results could be achieved, but should be reconsidered or discontinued in areas on which no progress had been made over the years or where there was a risk of duplicating work undertaken elsewhere. In that context, the European Union was somewhat cautious about the inclusion of new items in the Special Committee's agenda.

21. **Ms. Vargas Walter** (Cuba), speaking on behalf of the Non-Aligned Movement, said that the Special Committee had a key part to play in the current process of reforming the United Nations, in particular by considering its legal aspects. The democratization of the principal organs of the United Nations and respect for the role and authority of the General Assembly are important elements of that process.

22. The Non-Aligned Movement was seriously concerned about the matter of sanctions imposed by the Security Council, which should only be used as a last resort. Their purpose was not to punish or take reprisals against the population. They should be legally justified, have a specific time frame and clearly defined objectives and be subject to periodic review; once their objectives had been achieved, they should be lifted. They should only be applied when there was a threat to international peace and security or an act of aggression and never preventively, merely because of a violation of international law. Targeted sanctions might be a better option, provided that the population of the target State did not suffer from them, either directly or indirectly.

23. **Mr. Zinsou** (Benin), speaking on behalf of the African Group, said that the power of the Security Council to impose sanctions should be exercised in accordance with the Charter of the United Nations and international law and only after exhaustion of all peaceful means of settlement. Sanctions should be imposed within a specific time frame and should be lifted as soon as their objectives had been achieved; they should be non-selective and targeted so as to mitigate their effects on the population.

24. The African Group attached special importance to article 50 of the Charter, under which any State had a right to consult the Security Council with regard to a solution of economic problems confronting it as a result of preventive or enforcement measures taken against another State. Moreover, the Group was greatly concerned about unilateral economic sanctions being used as an instrument of foreign policy against developing countries in violation of international law and the right to development.

25. It was important to assist third States affected by sanctions, as recognized in the relevant General Assembly resolutions, and to continue the work of the Working Group on General Issues of Sanctions. The African Group reiterated its support for the draft submitted by the Russian Federation entitled "Declaration on the basic conditions and standard criteria for the introduction and implementation of sanctions" and for the proposal made by the Libyan Arab Jamahiriya, particularly regarding the possible payment of compensation to target and/or third States for damage caused by the unlawful imposition of sanctions. The African Group, while supporting the principle embodied in the Charter of free choice of means of peaceful settlement, reaffirmed the important role played by judicial mechanisms, in particular the International Court of Justice, and urged Member States to make the most effective use of existing methods for the prevention and peaceful settlement of

disputes. Lastly, the Group welcomed the progress made in eliminating the backlog in the publication of the *Repertory of Practice of United Nations Organs* and the *Repertoire of the Practice of the Security Council*.

26. **Ms. Negm** (Egypt) said that the Special Committee was a fundamental tool for ensuring that the United Nations fully performed its role with regard to conflict prevention and settlement and enforcement of the collective security system; its capacity to discharge that mission was being curtailed, however, because the interests of some were prevailing over those of others. Moreover, the Special Committee's ability to achieve concrete results with regard to dispute settlement had been hampered by a lack of political will to settle disputes and the continued application of double standards. It was important to respect the mandates of all United Nations organs: the Security Council should not interfere in the affairs of the General Assembly or of the Economic and Social Council; and the delicate balance between the various organs established by the Charter should be maintained. That would ensure greater transparency, accountability and democracy in the adoption of resolutions to benefit all Member States without exception.

27. The Security Council should act as a representative of all States Members of the United Nations and not just its own members and to that end should undertake to observe a number of minimum standards. It should not impose sanctions unless all peaceful means of settlement had been exhausted or unless the State concerned refused to cooperate with the international community; it should not apply sanctions for political purposes; its sanctions should be imposed gradually, within specific time limits, and should be lifted upon their expiration; it should be alert to humanitarian concerns, in respect not only of target States but also of third States; and, lastly, it should not rely on information provided by its members or by others without investigating its accuracy.

28. Her delegation welcomed the developments with regard to discussions on the declaration on the subject of sanctions submitted by the Russian Federation and regretted that the mandate of the Working Group on General Issues of Sanctions had been discontinued. It supported the proposal to request an advisory opinion from the International Court of Justice concerning the legal consequences of the use of military force by a State without the prior consent of the Security Council. It considered that the Working Group on Security Council Reform should continue to work to make the Council more representative of all States, especially African States, developing and small countries and small island developing States. The Special Committee should continue improving its working methods, with a view to completing work on some of the proposals before it. Her delegation thanked the Secretariat on its efforts to ease the backlog in the publication of the *Repertory of Practice of United Nations Organs* and the *Repertoire of the Practice of the Security Council*, and looked forward to the time when both publications would be available on the Organization's website in all the official languages of the United Nations.

29. **Ms. Tansu-Seçkin** (Turkey) said that, while aligning itself with the statement made on behalf of the European Union, Turkey attached special importance to the question of third States affected by the application of sanctions, having itself suffered considerably as such a State. The report of the Informal Working Group of the Security Council on General Issues of Sanctions (S/2006/997, annex) contained no recommendations on ways of assisting untargeted States affected by sanctions, while the further revised working paper on basic conditions and standard criteria for the introduction and implementation of sanctions submitted by the Russian Federation no longer referred to the non-permissibility of situations where third States would suffer from the consequences of sanctions, specifying simply that such situations should be avoided; in addition, it did not provide for consultation with third States before the imposition of sanctions or for relief measures. For those reasons, the further revised working paper required additional consideration.

30. Her delegation attached the utmost importance to the principle of free choice of means in the settlement of disputes: the consent of the parties concerned should be required before referral to a dispute-solving body. It looked forward to the continued updating of the *Repertory* and the *Repertoire* and hoped that its contribution would assist that effort. Lastly, the delegation believed that the Special Committee should be used much more efficiently.

31. **Mr. Goulder** (Libyan Arab Jamahiriya) said his delegation supported the recommendations mentioned by the Special Committee in paragraph 13 of its report (A/62/33) and any other measures that could advance

its work and improve its working methods. His delegation also reaffirmed the importance that it attached to the Special Committee's work and its contribution to the legal aspects of United Nations reform.

32. The Special Committee should not overlook the commitments arising from the 2005 World Summit and the legal aspects thereof, nor should it ignore the important issue of sanctions and the procedures for their implementation. The competence of the Security Council was based on the purposes and principles of the Charter of the United Nations and on the rules of international law. Sanctions should therefore be used only as exceptional measures, after all other available legal measures had been exhausted; they should have a limited time frame, and a specific objective, and be imposed for reasons based on objective criteria. In order to ensure that those conditions were met, those wishing to abuse sanctions must be held accountable for their direct and indirect social and economic impact. The establishment of true democracy in United Nations organs and in the relations between the General Assembly and the Security Council was at the core of the reform process. Therefore, the issue of sanctions was of central importance and should remain on the Special Committee's agenda.

33. **Mr. Kang'ombe** (Zambia) emphasized the importance of the effective implementation of Article 50 of the Charter in view of the suffering often caused to innocent people by sanctions affecting untargeted countries. Sanctions should have a clear purpose and specific duration and they should be targeted; they should be applied in a transparent manner and should end when they had served their purpose. They should also be subject to periodic review in order to mitigate their adverse affects on ordinary people and on third States. His delegation therefore welcomed the recommendations and best practices set out in the report of the Informal Working Group of the Security Council on General Issues of Sanctions (S/2006/997, annex) concerning improved sanctions design and monitoring, while regretting that they contained no explicit mention of ways of assisting untargeted States affected by the unintended impact of sanctions. In imposing sanctions, the Security Council must have due regard for the Charter of the United Nations and the rules of international law. The relevant decisions on sanctions contained in the 2005 World Summit Outcome should continue to be implemented for the benefit of affected Member States.

34. **Mr. Medrek** (Morocco) said the Special Committee had originally made a good start on fulfilling its important mandate of strengthening the role of the Organization but in recent years had made little progress owing to a lack of the political will and flexibility needed to conclude its examination of a number of proposals that had long been on its agenda.

35. His delegation considered that the application of sanctions, while necessary whenever the Security Council determined the existence of a threat to the peace, a breach of the peace or an act of aggression, should be a last resort. Sanctions should be imposed within a precise time frame; they should be periodically reviewed and lifted once they had fulfilled their purpose. Care should be taken to ensure that they did not have the opposite effect to that intended and cause harm both to target States and to third States. In practice, despite the efforts made, they affected innocent civilian populations and led to the economic destabilization of target States and/or third States. The Security Council had, however, taken commendable measures in that regard, by adopting new procedures for placing individuals and entities on sanctions lists and for removing them, and it should continue its efforts along those lines.

36. The revised working paper on basic conditions and standard criteria for the introduction and implementation of sanctions submitted by the Russian Federation (A/C.6/62/L.6) had taken into account a large number of comments and proposals made at previous sessions of the Special Committee and could therefore be recommended to the General Assembly for adoption. His delegation supported the idea of setting up a working group to conduct consultations on the text.

37. The significant evolution of the character of peacekeeping operations and the Organization's considerable experience in that field provided a basis for the elaboration of a unified document that could assist the Security Council in the preparation of its resolutions regarding the establishment of future peacekeeping operations. Furthermore, the question should be raised whether the legal basis of peacekeeping might not be considered in the General Assembly.

38. With regard to the peaceful settlement of disputes, the Special Committee's discussion of the question seemed, regrettably, to be of little use, since no specific proposal had been received on that matter.

39. His delegation wished to emphasize once again the usefulness and importance of the *Repertory* and the *Repertoire* and welcomed the Secretariat's efforts to reduce the backlog in their preparation and publication.

40. Concerning the Special Committee's working methods, his delegation welcomed the adoption by that Committee of the working paper submitted by Japan (A/61/33, para. 72). It considered that the work of the Special Committee could be revitalized by the addition of an interesting topic. The proposal made by the Rio Group concerning the item entitled "Consideration of the legal aspects of the reform of the United Nations" might be an avenue worth exploring.

41. **Ms. Chen** Peijie (China) said that, over the years, the Special Committee had played an active role in maintaining world peace and security and promoting peaceful solutions of disputes. Sanctions should be governed by strict standards on account of their substantial impact and possibly adverse effects on third countries. The Special Committee's study of that issue from a legal perspective would help to improve sanctions regimes which must meet the following criteria. First, the decision to apply sanctions should be in line with the United Nations Charter and the principles of international law. Secondly, sanctions should be applied only once peaceful means for solving disputes endangering world peace and security had been exhausted. Thirdly sanctions must be clearly targeted with an explicit time frame and purpose. The revised working paper submitted by the Russian Federation reflected the concerns of all sides. As his delegation hoped that the Special Committee's deliberations on the paper would soon produce results, it supported the proposal to set up a working group within the Sixth Committee to study the paper.

42. Although assistance to third States affected by sanctions had long been a major concern of the Special Committee, the negative impact of sanctions on those States remained a practical problem to which a solution had to be found. It was therefore imperative to develop methodology for assessing that impact and to explore feasible measures for extending international assistance to affected States. Possible options in that respect might be the setting up of a fund, the establishment of a permanent consultative mechanism, multi-channel financial arrangements and economic assistance.

43. The development of a set of guidelines for United Nations peacekeeping operations was another matter deserving the Special Committee's attention, although his Government was flexible as to which body should discuss that question. The Special Committee could also identify and study new subjects reflecting current needs, but no new topic should entail any amendment of the Charter without the General Assembly's explicit authorization. Amendment of the Charter should be approached prudently with a view to strengthening the role of the Organization. Provided that all Governments demonstrated enough political will, the Special Committee could contribute effectively to the process of revitalizing the United Nations.

44. **Mr. Oraon** (India) said that the Security Council bore the primary responsibility for maintaining international peace and security and for finding definitive solutions to the problems of third States affected by sanctions imposed by the United Nations, in accordance with Article 50 of the Charter. He was therefore pleased to note that the Security Council had adopted various measures to mitigate the effects of sanctions on third States and to ensure that sanctions were carefully targeted, with the result that the unintended economic consequences for third States had been significantly reduced. The unfreezing of assets to allow payments due under a contract constituted a further move in the right direction. He was also glad that, owing to the steps taken, during the period under review, no Member State had approached any of the sanctions committees to report any special economic problems arising from the implementation of sanctions. One reason for the success of those measures was that, as part of the international community's effort to counter global terrorism, the Security Council had shifted from sanctions against States to those targeting individuals and non-State entities. Nevertheless if the Security Council decided to order major new sanctions against a State, the issue of third country hardship might resurface. For that reason, the Russian proposal remained relevant, since the adoption of fair and clear procedures making for the requisite transparency and certainty would strengthen the effectiveness and credibility of the sanctions regime. He therefore supported the idea of establishing a working group within the Sixth Committee to examine the topic of sanctions and third States.

45. Turning to the Russian Federation's working paper entitled "Fundamentals of the legal basis for United Nations peacekeeping operations in the context of Chapter VI of the Charter of the United Nations", he said that although the political and operational aspects of peacekeeping were being dealt with by other specialized committees, the Special Committee could contribute by scrutinizing the subject from a legal perspective.

46. Seeking an advisory opinion from the International Court of Justice on the legal consequences on resorting to the use of force without the Security Council's authorization, as proposed by the Russian Federation and Belarus, would provide an opportunity to clarify certain important legal aspects of the question.

47. The general membership of the United Nations was greatly concerned by the fact that the Security Council's continuing encroachment on the General Assembly's mandate had not been prevented by the clear demarcation of powers in the Charter, or by the expansion of non-permanent membership of the Security Council. Widening permanent membership, with the new permanent members being held accountable through draconian reviews, would be the only way of introducing the checks and balances needed in order to prevent encroachment and enhance the efficiency of the United Nations.

48. His Government supported continued work on the *Repertory of Practice of United Nations Organs*, because it was a valuable source of information on the application of the Charter and an indispensable tool for preserving the Organization's institutional memory. It was likewise in favour of updating the *Repertoire of the Practice of the Security Council*.

49. **Mr. Abdelsalam** (Sudan) said that the Special Committee had been established to consider specific proposals submitted by Governments on enhancing the capacity of the United Nations to achieve the aims set out in the Charter and had negotiated a number of proposals relating to the adoption by the General Assembly of legal documents on the peaceful settlement of disputes and the development of cooperation mechanisms between the United Nations and regional organizations relating to international peacekeeping and security, the most recent of which was General Assembly resolution 57/26.

50. The substantive proposals submitted by Member States had been thoroughly discussed by the Special Committee and some had been agreed upon by all delegations but had not been issued as a document. Some delegations had seriously considered withdrawing their proposals because they remained caught up in theoretical debate; that situation had brought the work of the Special Committee to a virtual standstill. The time was ripe for the General Assembly to compile those proposals on which there was virtual consensus and convert them into a legislative reality that would guide States and allow the Special Committee to investigate new proposals for strengthening the Organization particularly in view of the continuing drive to reform the latter's institutions and practices.

51. His delegation considered sanctions to be a priority issue. The 2005 World Summit considered them to be an important tool for maintaining international peace and security without recourse to the use of force and noted the need to implement and monitor them effectively with clear benchmarks and terminate them once their objectives have been achieved. On the basis of that document and the provisions of the Charter, recourse to sanctions was a last resort after the exhaustion of all other peaceful means. Sanctions must be guaranteed not to harm civilians and third parties or used as a tool for exerting political pressure.

52. His delegation welcomed the efforts of the Secretary-General to speed up the preparation and publication of the *Repertory of Practice of United Nations Organs* and the *Repertoire of the Practice of the Security Council* and commended the proposals of the Special Committee contained in its most recent report.

53. **Ms. Pino Rivero** (Cuba) said that, because of the mandate it had been given by General Assembly resolution 3499 (XXX), the Special Committee was predestined to play an essential part in the process of reforming the United Nations. She therefore supported the recommendation that the negotiation of any amendment of the Charter resulting from the current reform process should take place within the Special Committee.

54. It was more necessary than ever before to uphold the purposes and principles of the Charter and to press on with genuine reform to democratize the

Organization. It was also vital to find a lasting solution to the implementation of the provisions of Chapter VII of the Charter concerning assistance for third States affected by the application of sanctions. The latter should be imposed only as a last resort in cases of a genuine threat to peace, a breach of the peace, or an act of aggression, if all the means of arriving at a peaceful settlement of disputes provided for in Chapter VI of the Charter had been exhausted and after the economic, social and humanitarian effects of those sanctions in both the short and the long term had been carefully assessed. Sanctions regimes must have clearly defined purposes. They must be reviewed and immediately suspended or lifted when their aims had been reached. Any attempt to use sanctions to completely change or modify the political or legal system of a country was illegal and a violation of international law.

55. Her delegation endorsed the proposal to set up a working party within the Sixth Committee to study the working paper submitted by the Russian Federation on the basic conditions and standard criteria for the introduction and implementation of sanctions imposed by the United Nations (A/C.6/62/L.6).

56. Conflict prevention was of prime importance, but special attention should likewise be paid to resolving disputes by fostering agreement between the parties by whatever method appeared most suitable. Cuba's working paper entitled "Strengthening of the role of the Organization and enhancing its effectiveness" sought to boost the General Assembly's role in safeguarding international peace and security, in the light of the fact that it was the Organization's main legislative and representative organ.

57. The publication of updated versions of the *Repertory of Practice of United Nations Organs* and the *Repertoire of the Practice of the Security Council* would be very useful, as they formed part of the historical memory of the Organization and were a helpful research tool for experts.

58. It was crucial that States pulled together and displayed flexibility when discussing the important subjects handled by the Special Committee so as not to impede its work. Its limited progress was due to the lack of political will and not by any means the result of its working methods. Members should realize that deliberations in the Special Committee would help to strengthen the role of the Organization.

59. **Mr. Moreno** (Bolivarian Republic of Venezuela), acknowledging the outstanding role played by the United Nations vis-à-vis the challenges of sustainable economic development, human rights and international peace and security in a political, economic and social environment very different to that obtaining when it had been founded in 1945, at the end of the Second World War, said that the political processes which had led to the increase in the number of the Organization's Member States from 51 to 192 had put it on course to build a multipolar world in tune with reality. A correct reading of the current environment was the prerequisite for strengthening the Organization and promoting certain urgently needed changes such as the democratization of its institutions, the improvement of its working methods and respect for the competence of each principal organ and the dominant role of the General Assembly. Hence the main challenge facing the Organization was linked to its ability to serve the purposes for which it was founded; that meant that it should transform itself by casting aside inequalities between its Member States.

60. Sanctions should be seen not as a device for resolving conflicts or for punishing States, but as exceptional measures designed to curb threats to international peace and security. They should be selective, have clear objectives and strike a balance between efficacy, desired results and the harmful consequences they would have on the civilian population and third States. Efforts should therefore continue to reduce all adverse effects of sanctions on third States. The international community should show its solidarity by granting economic assistance to those States in order to minimize the economic repercussions of sanctions. An endeavour should likewise be made to mitigate the impact of sanctions on vulnerable groups of the civilian population of both targeted and third States. The way sanctions were being applied was evidence of the unbalanced composition of the Security Council, which had not yet been transformed or democratized and was overstepping its real competence.

61. The recommendations contained in the Special Committee's report (A/62/33) formed a good basis for future work on building a United Nations tailored to the realities of the twenty-first century.

62. **Mr. Mukongo Ngay** (Democratic Republic of the Congo) reaffirmed his delegation's view that sanctions should only be imposed in accordance with Chapter

VII of the Charter and only if all means for peaceful settlement of disputes had been exhausted. While supporting the idea of targeted sanctions, his delegation believed that due consideration must be given to the unintended consequences of such sanctions on civilian populations and third States. Case-by-case assessment was needed in order to determine what compensation for damages might be appropriate.

63. Concerning the sanctions imposed by the Security Council against the Democratic Republic of the Congo in 2004, his delegation maintained that the purpose of such measures should be to prevent the illegal exploitation of natural resources to finance the armed groups and militias that remained active in the eastern part of the country, not to prevent the legitimate Government from using the country's wealth for the good of the population.

64. With regard to the use of force, except in cases of self-defence or action taken at the initiative of the Security Council, his delegation could only condemn any coercive action carried out in violation of Chapter VI of the Charter. Military intervention could only be justified if all peaceful means of settling a crisis had been explored in accordance with Article 33 of the Charter. In that regard, he invited the Committee to recall paragraph 77 of the 2005 World Summit Outcome, which dealt with the use of force. He supported the proposal by Belarus and the Russian Federation to request an advisory opinion from the International Court of Justice concerning the legal consequences of the resort to the use of force without the prior authorization of the Security Council or outside the context of self-defence.

65. With respect to the *Repertory of Practice of United Nations Organs* and *the Repertoire of the Practice of the Security Council*, his delegation supported the recommendations put forward by the Secretary-General in his report (A/62/124) and commended the progress in making all language versions available on the Internet. He particularly welcomed the electronic posting of all previously published French versions of the *Repertoire*. Nevertheless, given the well-known digital divide between the countries of the North and those of the South, hard copies of all volumes of the two publications should remain available.

66. **Mr. Djédjé** (Côte d'Ivoire), speaking as the representative of a country which had been subjected to sanctions for three years, said that maintaining international peace and security by strengthening the role of the United Nations and enhancing its effectiveness was a priority. He wondered, however, whether sanctions, even when carefully targeted, really promoted the peaceful settlement of disputes. While the international community had obviously meant well in its endeavours to grapple with the Ivorian crisis and while the commitment and competence of those who had designed the unsuccessful response were not in doubt, their diagnosis had been questionable.

67. In what way had the political struggle waged by Charles Blé, Kouakou Fofié or Eugène Kouadio conflicted with the aims of the United Nations Charter, since each of them had been fighting for freedom? Although genuine steps towards national reconciliation were being taken, the very people responsible for those steps were being affected by United Nations sanctions. The question Ivorians were asking was whether those sanctions were intended to punish individuals or to restore peace in the country. Since the former belligerents were actively contributing to the establishment of lasting peace, what was the point of maintaining sanctions?

68. Sanctions should not be adopted or maintained when they would seriously hamper the post-conflict normalization process. It was regrettable that although some constructive proposals had been put forward, the Special Committee had achieved little progress on the adoption of the revised working paper submitted by the Russian Federation and entitled "Declaration on the basic conditions and standard criteria for the introduction and implementation of sanctions and other coercive measures". The adoption of that working paper was still one of the principal tasks to be completed by the Special Committee. He therefore called on Member States to participate actively in informal consultations on the working paper.

69. Any application of sanctions should be in accordance with the Charter of the United Nations and with the pertinent provisions of international law and must meet objective and precise criteria. Sanctions must have clearly defined objectives and must never be imposed in order to exact punishment or retribution. Their purpose was to bring about a change in conduct in an individual or entity. Coercive measures must have precise deadlines, be periodically reviewed and be

lifted as soon as they had achieved their ends. He therefore welcomed the adoption of Security Council resolutions 1730 (2006) and 1735 (2006) which set out to establish fair and clear procedures for including or removing individuals from the lists of sanctions committees by creating a focal point to receive de-listing requests. No additional conditions should be imposed for the lifting of sanctions and more should be done to limit the unintended consequences they could generate.

70. **Ms. Adekumbi** (Nigeria) said that her delegation attached special importance to the work of the Special Committee and the efforts regarding the provision of assistance to third States affected by the application of sanctions. It also welcomed the shift in focus in the procedures and working methods of the Security Council and its sanctions committees with respect to targeted sanctions.

71. Her delegation had noted the information in paragraph 14 of the Secretary-General's report (A/62/206) regarding targeted sanctions and the absence of any appeals for remedy or relief since 2003. Nevertheless, her Government believed that there was a need for further enlightenment about the processes and procedures to be followed by third States in obtaining relief, and she therefore urged the Secretariat to continue to compile and disseminate information on the topic.

72. Even targeted sanctions devastated the lives of ordinary citizens, in both targeted and third countries. Sanctions should therefore only be applied in accordance with the Charter and international law. They should be used only as a last resort after all means of peaceful resolution of disputes had failed; they should only remain in effect for a specified period; and their impact should be continuously monitored.

73. **Mr. Lamine** (Algeria), reiterating his delegation's position on the matter of sanctions, said that such measures should only be imposed if the Security Council had determined that a real threat to the peace, breach of the peace or act of aggression existed, and they should be a last resort, after all peaceful means of dispute settlement had been exhausted. Sanctions should be periodically reviewed and should be lifted as soon as they had fulfilled their purpose. Furthermore, sanctions should only be imposed within the framework of the United Nations. His delegation underscored its disapproval of the continuing trend towards the imposition of unilateral sanctions by some States or groups of States. Unilateralism was counter-productive and detrimental to collective action by the United Nations.

74. His delegation reiterated its firm support for the revised working paper submitted by the Russian Federation on the subject (A/C.6/62/L.6) and requested that it be discussed by a working group of the Sixth Committee. Regarding third States affected by the application of sanctions, his delegation believed that Article 50 of the Charter, could not be interpreted as being of a purely procedural nature. Providing assistance to third States made it easier for them to respect the sanctions imposed, which in turn made the sanctions more effective.

75. Algeria wished to see continued discussion of the working papers submitted by Cuba on strengthening the role of the Organization (A/AC.182/L.93 and Add.1), particularly with respect to revitalizing of the work of the General Assembly with a view to restoring its rightful role as the chief deliberative, policymaking and representative body of the United Nations. On the issue of maintenance of international peace and security, his delegation continued to support the proposal submitted by Belarus and the Russian Federation (A/AC.182/L.104/Rev.1) to request an advisory opinion from the International Court of Justice as to the legal consequences of the resort to the use of force without the prior authorization of the Security Council or outside the context of self-defence. It was to be hoped that a consensus on the issue would be reached so that the General Assembly might proceed to request an opinion from the Court, in accordance with paragraph 96 of the Charter.

76. Lastly, his delegation appreciated the Secretariat's efforts to ensure regular publication of the *Repertory of Practice of United Nations Organs* and the *Repertoire of the Practice of the Security Council* and encouraged it to continue those efforts.

77. **Mr. Tugio** (Indonesia) said that the United Nations, as the supreme symbol of the unity of the international community, could be very useful to Member States in the achievement of their multilateral objectives, but only if it was appropriately strengthened and positioned to enable it to discharge its responsibilities effectively. For Indonesia, the most important issues in that regard were democratizing the

principal organs of the United Nations, establishing the primacy of the General Assembly and ensuring balance in the authority and responsibilities of the principal organs, as mandated by the Charter. With particular reference to the General Assembly, strengthening it meant finding ways to make it both efficient and effective.

78. His delegation considered it vital to consider the legal implications of the United Nations reform process. It was also important to acknowledge the role of the International Court of Justice in the overall structure of the United Nations, particularly in the peaceful adjudication of disputes among States. The Court continued to be a major asset where the principal organs had different interpretations with regard to their respective Charter mandates. His delegation saw the merit of the proposal by Belarus and the Russian Federation concern the request for an advisory opinion from the Court concerning the resort to force by States without prior authorization from the Security Council.

79. Regarding the imposition of sanctions, Indonesia had always held that sanctions must be an instrument of last resort, not to be used unless all means of peaceful settlement of disputes had been exhausted. It could not be stressed enough that sanctions should not victimize the people they were intended to help, and their negative effects on third States and their people should be minimized or eliminated. It was the responsibility of the Security Council to ensure, before sanctions were imposed, that they would not make life unbearable for the vulnerable. If sanctions were required, they must be clearly defined. They must also be routinely reviewed, according to a set of predefined criteria, and lifted either as soon as they were perceived to have achieved their objectives, or as soon as institutional review revealed them to be hurting the vulnerable.

80. His delegation was pleased with the progress being made in the preparation of the *Repertory of Practice of United Nations Organs* and related studies and the updating of the *Repertoire of the Practice of the Security Council* and supported the efforts of the Secretary-General to enhance their quality and make them available electronically in the various language versions.

81. **Ms. Mohd. Nurdin** (Malaysia) stressed that the United Nations should remain the primary forum for ensuring the maintenance of international peace and security based on the principles of the Charter and international law. Malaysia welcomed the papers submitted by various delegations aimed at reaching that objective. Malaysia recognized the important role of the International Court of Justice in adjudicating disputes among States, which should avail themselves of that facility to seek the peaceful settlement of disputes and avoid the use or the threat of use of force. Malaysia supported the proposal by Belarus and the Russian Federation to seek an advisory opinion from the Court on the legal consequences of the use of force, believing that such an opinion would contribute to uniform interpretation and application of the relevant provisions of the Charter.

82. With regard to the revised Working Paper submitted by the Russian Federation in February 2007 (A/AC.182/L.114/Rev.2), Malaysia agreed that the impact of sanctions on third States needed careful consideration to avoid unintended consequences and implementation difficulties. Sanctions should only be considered after all means of peaceful settlement of disputes had been exhausted and thorough consideration had been given to their short- and long-term effects. Sanctions should be monitored effectively, with clear benchmarks, and should be periodically reviewed. They should remain in effect for as short a period as possible and should be lifted once their objectives had been achieved. The conditions demanded of the country or party on which sanctions were imposed should be clearly defined and subject to periodic review. Attempts to impose or to prolong the application of sanctions to achieve political ends should be rejected.

83. Monitoring by the Security Council or by its subsidiary organs should not be done for the purpose of targeting particular States. Malaysia was concerned that such arbitrary targeting might also be done under the guise of providing "technical assistance". Based on its experience in implementing certain Security Council resolutions, Malaysia suggested that implementation guidelines should be issued or a means of seeking clarification provided. In relation to Security Council resolutions 1737 (2006) and 1747 (2007), she noted that provision was made to deal with non-compliance by implementing States, but the consequences were unclear. Malaysia believed that such operating procedures needed further scrutiny and care in drafting.

84. Concerning the working paper submitted by the Libyan Arab Jamahiriya on sanctions (A/AC.182/L.110/Rev.1), Malaysia has no objection to the consideration of that paper in the Special Committee if it was determined to be within that Committee's terms of reference. Malaysia strongly advocated strict adherence to all Charter and international law criteria in the imposition of sanctions, in particular the right of targeted States to be heard well before sanctions were applied, and supported the call for transparent decision-making to ensure the legitimacy of the actions taken, including any taken under Chapter VII of the Charter.

85. **Mr. Rodger Young** (United States of America) commended the Secretary-General's efforts to reduce the backlog in preparing the *Repertory of Practice of United Nations Organs* and the *Repertoire of the Practice of the Security Council*.

86. With regard to the discussions by the Special Committee of various proposals concerning sanctions, his delegation had said previously that it did not believe that the Special Committee should aim to devise norms relating to the design and implementation of sanctions because such action would be duplicative or inconsistent with the roles of the principal organs of the United Nations as set forth in the Charter, in particular Article 24. Some Member States continued to assert that Article 50 of the Charter required the Security Council to take action to assist third States affected by the imposition of sanctions. The United States wished to reiterate its long-held view that while the consultations envisaged in Article 50 provided a mechanism to discuss the effects of sanctions on third States, that Article did not require the Council to take any specific action.

87. In that regard, his delegation welcomed the Secretary-General's report (A/62/206), which indicated that, during the period under review, there had been no consultations by Member States to express concerns about special economic problems resulting from the imposition of sanctions. Since targeted sanctions had substantially minimized unintended economic consequences for States, his delegation saw no reason to consider establishing a fund financed from assessed contributions or through some other Organization-based financial arrangement in order to address an abstract concern. Moreover, as the report indicated, the Security Council had taken steps to mitigate economic burdens on targeted individuals arising from a decision to freeze assets, allowing exceptions whereby States could authorize access to frozen funds for a variety of basic and extraordinary expenses.

88. It was a priority of the United States to ensure that the lists of individuals and entities targeted by the Security Council for sanctions were as accurate as possible and that the process was fair and clear. His delegation therefore welcomed the adoption of Security Council resolution 1730 (2006), particularly provisions relating to the establishment of a focal point in the Secretariat to receive de-listing requests.

89. His delegation had noted with interest the proposals of several Member States regarding new subjects that might warrant consideration by the Special Committee. With respect to the proposal on "Consideration of the legal aspects of the reform of the United Nations", the United States agreed that, as appropriate, the Special Committee might have a technical role to play in matters relating to the implementation of any decisions to amend the Charter of the United Nations. However, it would be helpful to receive additional detail about the proposal before the Special Committee met in 2008.

90. Lastly, his delegation did not support the proposal that the General Assembly should request an advisory opinion from the International Court of Justice on the legal consequences of the use of force, as the matter was adequately and clearly addressed in the Charter.

91. **Mr. Shautsou** (Belarus) said that the Special Committee was the appropriate body to study the whole spectrum of issues related to the reform of the United Nations system, as provided for in General Assembly resolution 3499 (XXX).

92. Sanctions were the strongest coercive measures for bringing pressure to bear on a transgressor State and they must be adopted only when other political means of settling conflicts threatening international peace and security had been exhausted. Since precise and unambiguous criteria must be laid down for the introduction and implementation of sanctions, he welcomed the Russian Federation's proposal that a working group should be set up to study the working paper on the basic conditions and standard criteria for the introduction and implementation of sanctions imposed by the United Nations (A/C.6/62/L.6).

93. When adopting sanctions, the essential aim was to ensure that they were accurately targeted and highly

effective. They must end as soon as their purpose was achieved. The objective assessment of their possible consequences, including their repercussions on third States, was no less important. Assistance for third States affected by the application of sanctions introduced under Chapter VII of the United Nations Charter would promote the effective, full-scale compliance of the international community with Security Council sanctions. For that reason, it was vital that the Special Committee should continue its work on that question, including within the ad hoc expert group on assistance to third States affected by sanctions. Wider use of the Special Committee's findings should be made in the practice of the Economic and Social Council, the Security Council and other United Nations bodies.

94. His Government was prepared to discuss any proposals concerning the joint recommendation of his country and the Russian Federation that an advisory opinion should be sought from the International Court of Justice as to the legal consequences of the resort to the use of force by States without the Security Council's prior authorization, except in the exercise of the right to individual or collective self-defence, in order that the Special Committee could agree on a text for submission for the General Assembly's consideration.

95. **Mr. Mikanagi** (Japan) said that although measures had been adopted in 2006 with a view to improving the working methods of the Special Committee, Japan was not satisfied with the Special Committee's current status and believed that further improvements should be considered. Any proposals for the addition of new items must be carefully examined in accordance with the adopted working methods, which set out strict rules on the matter. Moreover, the Sixth Committee must ensure that its discussion of the Special Committee's report was conducted as efficiently as possible. Given the many important issues before the Committee, and the delay that it was experiencing in implementing its programme of work, it should not spend too much time on the current item.

*The meeting rose at 12.55 p.m.*